To guarantee that Americans have the freedom to make certain reproductive decisions without undue government interference.

IN THE SENATE OF THE UNITED STATES

Mr. Kaine (for himself, Ms. Murkowski, Ms. Sinema, and Ms. Collins) introduced the following bill; which was read twice and referred to the Committee on

A BILL

To guarantee that Americans have the freedom to make certain reproductive decisions without undue government interference.

1 Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled,
3 SECTION 1. SHORT TITLE.
4 This Act may be cited as the “Reproductive Freedom for All Act”.
5 SEC. 2. PURPOSE.
6 It is the purpose of this Act to guarantee that Ameri-
7 cans have the freedom to make certain reproductive deci-
8 sions without undue government interference, consistent

SEC. 3. FINDINGS.

Congress finds the following:

(1) For decades, the Supreme Court of the United States has held that the liberty protected by the Fourteenth Amendment encompasses a right to make certain reproductive decisions without undue government interference.

(2) While these precedents have advanced slightly different constitutional rationales, and have acknowledged that some government regulation is acceptable, they have created a society whereby Americans expect to make certain reproductive decisions without undue government interference. Generations of American women have relied on the fact that they have the freedom to make such choices as a matter of fundamental personal right.

(3) The right to make certain reproductive decisions without undue government interference should
be guaranteed for all Americans, consistent with the
Fourteenth Amendment’s guarantee of equal protec-
tion and due process under the law.

(4) The Supreme Court has recently reversed
two decades of jurisprudence in Dobbs v. Jackson
Women’s Health Organization (142 S. Ct. 2228
(2022)), concluding that questions related to the le-
gality of abortion services are a matter for legislative
action rather than constitutional protection.

(5) In light of the Dobbs ruling that the legality
of abortion services is now a matter of legislative ac-
tion, it is appropriate to enact the essential holdings
of the cases referred to in section 2 so that Ameri-
cans are guaranteed the freedom to make the repro-
ductive decisions discussed therein. The absence of
such a guarantee has a profound effect upon the
quality of Americans’ lives, particularly the lives of
women. As such, this action is an appropriate exer-
cise of the Congressional power established in sec-
tion 5 of the Fourteenth Amendment to the Con-
stitution of the United States. By continuing to pro-
tect their reliance on fundamental reproductive
rights, such a guarantee will improve the general
welfare for generations of American women.
(6) Enacting this guarantee is also justified as congressional regulation of interstate commerce because contraception and abortion services are economic transactions that frequently involve the shipment of goods, the provision of services, and the travel of persons across State lines.

SEC. 4. REPRODUCTIVE FREEDOM.

(a) In General.—All persons shall have the right to make certain reproductive decisions without undue government interference, consistent with the provisions of this Act.

(b) Authority.—A State—

(1) shall not prohibit an individual from obtaining or using contraceptives or contraceptive care;

(2) shall not impose an undue burden on the ability of a woman to choose whether or not to terminate a pregnancy before fetal viability;

(3) may regulate the termination of a pregnancy after fetal viability, provided that a State shall not prohibit the termination of a pregnancy that, in the appropriate medical judgment of the attending health care practitioner or practitioners, is medically indicated to protect the life or health of the pregnant woman; and
(4) may enact reasonable regulations to further
the health or safety of a woman seeking to terminate
a pregnancy, unless such regulations impose an
undue burden pursuant to paragraph (2).

(c) Rule of Construction.—Nothing in this Act
shall be construed to have any effect on laws regarding
conscience protection.

SEC. 5. ENFORCEMENT.
The Attorney General of the United States or any
person adversely affected by State laws passed in con-
travention of this Act may seek injunctive relief in a Fed-
eral district or State court. In any action or proceeding
under this section, the court, in its discretion, may allow
the prevailing party, other than the United States, a rea-
sonable attorney’s fee as part of the costs.

SEC. 6. DEFINITIONS.
(a) In General.—In this Act:

(1) Fetal viability.—The term “fetal viabil-
ity” means the time at which, in the appropriate
medical judgment of the attending health care prac-
titioner or practitioners, there is a realistic possi-
bility of maintaining and nourishing a life outside
the womb.

(2) Reasonable.—The term “reasonable”
with respect to a regulation referred to in paragraph
(4) of section 4(b), means that the regulation is consistent with the essential holdings of the cases referred to in section 2.

(3) STATE.—The term “State” includes the District of Columbia, the Commonwealth of Puerto Rico, and each other territory or possession of the United States, and any subdivision of any of the foregoing.

(b) UNDUE BURDEN.—For purposes of this Act, an undue burden shall be deemed to exist, and the related provision of law shall be invalid under section 4, if the purpose or effect of such law is to place a substantial obstacle in the path of a woman seeking to terminate a pregnancy before fetal viability.

SEC. 7. SEVERABILITY.

If any provision of this Act, or the application of such provision to any person or circumstance is held to be invalid, the remainder of this Act and the application of the provisions of such to any person or circumstance shall not be affected thereby.